

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

GS HOLISTIC, LLC,

Plaintiff,

v.

MITCHELL & MITCHELL  
ENTERPRISES INC., et al.,

Defendants.

CASE NO. C23-5214JLR

ORDER

Before the court is Plaintiff GS Holistic, LLC's ("GS Holistic") motion for a 60-day extension of time to perfect service on Defendant Rozalynn Fernandez. (Mot. (Dkt. # 11).) The court GRANTS GS Holistic's motion for an extension of time.<sup>1</sup>

Federal Rule of Civil Procedure 4 requires a plaintiff to serve the defendant with a

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<sup>1</sup> Although the motion is noted for consideration on June 23, 2023 (*see id.*), the court sees no reason to delay issuing a decision on the motion. *See* Fed. R. Civ. P. 1 (authorizing the court to construe the Federal Rules of Civil Procedure "to secure the just, speedy, and inexpensive determination of every action and proceeding").

1 summons and a copy of the complaint and sets forth the specific requirements for doing  
2 so. *See* Fed. R. Civ. P. 4. Rule 4(m), which provides the timeframe in which service  
3 must be effectuated, states in relevant part:

4       If a defendant is not served within 90 days after the complaint is filed, the  
5       court—on motion or on its own after notice to the plaintiff—must dismiss  
6       the action without prejudice against that defendant or order that service be  
7       made within a specified time. But if the plaintiff shows good cause for the  
8       failure, the court must extend the time for service for an appropriate period.

7 *Id.*

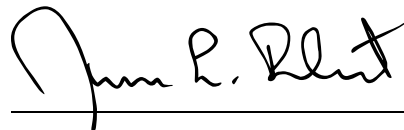
8       GS Holistic filed this action on March 14, 2023. (Compl. (Dkt. # 1).) As a result,  
9       Rule 4(m)’s 90-day deadline for effectuating service of process expired on Monday, June  
10      12, 2023. Fed. R. Civ. P 4(m). On April 20, 2023, GS Holistic filed an affidavit of  
11      service on Defendant Mitchell & Mitchell Enterprises. (4/20/23 Aff. of Service (Dkt.  
12      # 7).) It filed an affidavit of service on Defendant Timothy Mitchell on May 18, 2023.  
13      (5/18/23 Aff. of Service (Dkt. # 8).) On June 8, 2023, the Clerk entered default as to  
14      Mitchell & Mitchell Enterprises and Mr. Mitchell. (Entry of Default (Dkt. # 10).)

15      GS Holistic represents that its process server has attempted to serve Ms.  
16      Fernandez five times at her place of business but has been unsuccessful. (Mot. ¶ 3;  
17      DeMers Decl. (Dkt. # 12).) GS Holistic now asks the court to extend the Rule 4(m)  
18      deadline by 60 days to allow it to perfect service on Ms. Fernandez “either personally or  
19      by publication.” (Mot. ¶ 5.)

20      Based on the information GS Holistic has provided regarding its efforts to locate  
21      and serve Ms. Fernandez, the court finds that GS Holistic has not demonstrated good  
22      cause for its failure to effectuate service before the Rule 4(m) deadline. Specifically, it

1 does not appear that GS Holistic has attempted to serve Ms. Fernandez anywhere other  
 2 than her place of business. (*See generally* DeMers Decl.) Nevertheless, the court  
 3 GRANTS GS Holistic's motion for a 60-day extension of the deadline to perfect service  
 4 (Dkt. # 11).<sup>2</sup> GS Holistic shall file proof of service on Ms. Fernandez by no later than  
 5 **August 11, 2023**. Failure to do so may result in the dismissal without prejudice of GS  
 6 Holistic's claims against Ms. Fernandez. Further extensions of the deadline to serve Mr.  
 7 Ms. Fernandez will not be granted absent exceptional circumstances.<sup>3</sup>

8 Dated this 13th day of June, 2023.

9  
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11 JAMES L. ROBART  
 12 United States District Judge  
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16 <sup>2</sup> This order does not grant GS Holistic leave to serve Ms. Fernandez by publication. If  
 17 GS Holistic seeks to serve Ms. Fernandez by publication, it must file a motion for leave to do so.  
*See Pascua v. Heil*, 108 P.3d 1253, 1257 (Wash. Ct. App. 2005) (explaining the standard for  
 granting leave to serve a defendant by publication in Washington).

18 <sup>3</sup> Under Local Rules W.D. Wash. LCR 10(e)(3), the law firm, mailing address, and  
 19 telephone number of the attorney preparing the paper should be printed or typed at the bottom of  
 each page of a motion or other filing. In addition, Local Rules W.D. Wash. LCR 10(e)(5)  
 20 requires line numbers in the left margin of each page of a motion or other filing. Here, the footer  
 of GS Holistic's motion contains contact information for The Ticktin Law Firm, even though the  
 21 only attorney who has appeared in this action is Brett C. Harris of Virgo Law LLC. (*See* Mot.;  
 Dkt.) In addition, there are no line numbers on the pleading paper. (*See* Mot.) Accordingly, the  
 22 court ORDERS counsel for GS Holistic to carefully review the court's local rules and to ensure  
 compliance with those rules in all future filings. Failure to comply with the court's local rules  
 may result in sanctions.